

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (APL) No.39 of 2017
(Shashikant s/o. Valmik Jambhulkar .vs. State and another)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr.Firdos Mirza, Advocate for the applicant.
Mr.S.S.Doifode, A.P.P. for Non-applicant no.1/State.

CORAM : SMT VASANTI A NAIK &
M. G. GIRATKAR, JJ.

DATE : 12.9.2017.

By this Criminal Application, the applicant seeks the quashing and setting aside of the First Information Report bearing No.16 of 2017 registered against the applicant for the offences punishable under Sections 420, 406, 469 and 120-B of the Penal Code.

A report was lodged by the non-applicant no.2/Roshan Karwade on 4.1.2017 against the applicant alleging therein that he and his friend Akshay Brahmane had taken admission in the Renaissance College in the year 2013 and they had received a sum of Rs.2,300/- in their Bank Accounts. It is alleged in the report that the Scholarship amount was, however, received by the applicant for studying in the National College of Professional Institute, Nagpur. It is further alleged that the complainant Roshan and his friend Akshay had never studied in the said college and they were not aware about Rashtrabhasha Prachar Samiti. It is alleged in the complaint

that out of the Scholarship amount, the amount of maintenance fee of Rs.2,300/- was only deposited in the Bank Accounts of complainant Roshan and his friend and an amount of Rs.19,900/- towards tuition fees was directly deposited in the account of the College. It is stated that the applicant has misled the students and with an assurance that they are taking admission in the Resainnance Infotech Institution, admission forms were secured from them from the National College. It is further alleged that the applicant has committed misappropriation and fraud by making such admissions and has induced the innocent students to take admission in the Resainnance Infotech Institution and had got the forms filled in from them through the National College which is affiliated to Rashtrabhasha Prachar Samiti Gyan Mandal.

It is stated on behalf of the applicant that the F.I.R. is liable to be quashed and set aside as, on the basis of the material that is annexed by the applicant to the Criminal Application, it could be gathered that the allegations made in the report lodged by the complainant are not true. It is stated that by an interim order passed by this Court in Writ Petition No.1209 of 2016, dt.18.2.2016, the State Government was directed to conduct an enquiry into the affairs of the institutions run by the applicant only through the Officers of the Social Welfare department or the Tribal Welfare department. It is stated that, in view of such order, the non-applicant no.1 was prevented from registering the F.I.R. against the applicant.

On the other hand, the learned Additional Public Prosecutor has stated by relying on the affidavit-in-reply

filed on behalf of the non-applicants that the applicant has committed misappropriation and fraud to the tune of Rs.31,26,475/- and has induced the innocent students for taking admission to the Ressainance Infotech Institution and has filled up their forms through the National College affiliated to Rashtrabhasha Prachar Samiti Gyan Mandal for conducting one year course. It is stated that the students who had taken admission were handed over the Certificates issued by the Ressainance Infotech Institution for six months' course and not by the National College. It is stated that the applicant is allegedly involved in cheating and criminal breach of trust by hatching a conspiracy to commit the said offences. It is stated that the applicant has filled up forms of 124 students and had failed to deposit the program fees with Rashtrabhasha Prachar Samiti Gyan Mandal for conducting such course. It is submitted that the allegations in the F.I.R. would clearly show that National College was not there on the given address as stated in the Letter head and pass book, pertaining to the National College run by the applicant. It is stated that Rs.19,900/- per student have been pocketed by the applicant from each of the 124 students for completing one year course from the National College whereas the students were granted the Certificate of completion of six months's course from Ressainance Infotech Institution. It is stated that the documents on which the applicant has relied could be a matter of evidence in the trial, if at all the charge sheet is filed against the applicant. It is stated that, however, a case is not made out by the applicant to stall the investigation in the matter of registration of serious offences pertaining to Scholarship

scam.

On a perusal of the documents annexed to the Criminal Application as also the affidavit-in-reply filed on behalf of the non-applicant no.1, it appears that a case is not made out by the applicant for quashing and setting aside the F.I.R. registered against him. The documents on which the applicant has relied cannot be considered by this Court in exercise of the jurisdiction under Section 482 of the Code of Criminal Procedure to hold that the documents would show that the offences cannot be made out against the applicant. It cannot be said that on a reading of the allegations in the F.I.R., the offences punishable under Sections 420, 406, 469 and 120-B of the Indian Penal Code cannot be prima facie made out against the applicant. We do not find anything in the order passed by this Court on 18th February, 2016 in Writ Petition No.1209 of 2016 that prevents the non-applicant no.1 from registering the F.I.R. against the applicant. The reliance placed by the learned Counsel for the applicant on the said order to submit that the F.I.R. was wrongly registered is liable to be rejected.

Since the F.I.R. registered against the applicant cannot be quashed in the circumstances of the case, we dismiss the Criminal Application. Order accordingly.

JUDGE

JUDGE

**jaiswal*